

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DENARD ANTWON ROWELL,

Defendant.

Case No. 16-CR-109-JPS

ORDER

On July 12, 2016, the defendant, Denard El Ali Bey,¹ was charged in a single-count Indictment, which alleges a violation for failure to register as a sex offender as required by the Sex Offender Registration and Notification Act (“SORNA”), 42 U.S.C. § 16901 *et seq.* (Docket #6). This matter comes before the Court on Mr. Ali Bey’s motion to dismiss. (Docket #13).

On September 1, 2016, Magistrate Judge David E. Jones issued a Report and Recommendation (“the Report”) with this Court, recommending that the motion to dismiss be denied. (Docket #15). On September 12, 2016, Mr. Ali Bey filed a “Report and Recommendation on the Accused Legal Notices and Affidavits,” which the Court construes as an objection to Magistrate Jones’s Report. (See Docket #22). The government has indicated it does not intend to file a response to Mr. Ali Bey’s objections.

On September 13, 2016, the government filed a superseding indictment. (Docket #24). On September 21, 2016, Magistrate Jones conducted a status conference with the parties. During this conference, the parties agreed that the superseding indictment does not affect the issues presented

¹For the purposes of referring to the defendant in this order, the Court will use his preferred name of Denard El Ali Bey. (See Report at 1 fn.1, Docket #15) (explaining in detail the defendant’s requests to use preferred name).

in Mr. Ali Bey's motion to dismiss. Mr. Ali Bey requested that his previous motion to dismiss apply to the superseding indictment. (See Docket #28). In light of the parties' agreement on this issue, the Court will now address the pending motion to dismiss, Magistrate Jones's Report, and Mr. Ali Bey's objections. As discussed below, the Court will adopt the recommendation of Magistrate Jones and deny Mr. Ali Bey's motion to dismiss.

Pursuant to 28 U.S.C. § 636(b)(1)(B), a magistrate judge may consider potentially dispositive motions, such as a motion to dismiss for lack of venue, and issue proposed recommendations to the district judge regarding the motion. When reviewing a magistrate's recommendation, the Court is obliged to analyze the portions of the report to which the defendant has lodged objections *de novo*. 28 U.S.C. § 636(b)(1)(C). Thus, the Court can "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.* In other words, the Court's *de novo* review of Magistrate Jones's Report is not limited to his legal analysis alone; rather, the Court may also review the factual findings and accept, reject, or modify those findings as it sees fit based upon the evidence. *Id.*

For purposes of this motion, the Court presumes the parties' familiarity with the background of this case; as such, the Court will only briefly discuss the background and the Report's recommendation. Mr. Ali Bey asserts that the Court has no jurisdiction over him and that he has sovereign immunity. He refuses to recognize the charges because he does not acknowledge the United States Constitution, laws, or statutory structure as applying to him. He states that he does not stand under statutory or Constitutional law. (See Docket #13). Similar to Magistrate Jones, the Court interprets Mr. Ali Bey's arguments as an assertion that the Court does not

have jurisdiction, either subject matter or personal, over him. (See Docket #15 at 2).

Magistrate Jones's Report lays out in detail the Court's jurisdiction over Mr. Ali Bey in this matter. After careful consideration, the Report finds Mr. Ali Bey's jurisdictional argument to be frivolous. (Docket #15 at 3-5). The Court concurs entirely with the magistrate's reasoning, and thus need not elaborate any further. Finally, as far as the Court can gather, Mr. Ali Bey's objections to the Report contain no new arguments. Thus, the Court will adopt the recommendation and deny Mr. Ali Bey's motion to dismiss.

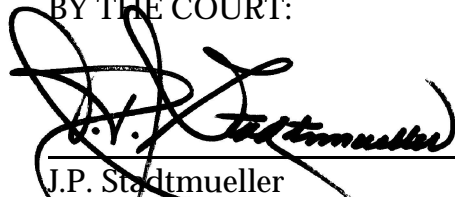
Accordingly,

IT IS ORDERED that Magistrate Judge David E. Jones's report and recommendation (Docket #15) be and the same is hereby ADOPTED; and

IT IS FURTHER ORDERED that, consistent with the Court's adoption of the Report and Recommendation, Mr. Ali Bey's motion to dismiss (Docket #13) be and the same is hereby DENIED.

Dated at Milwaukee, Wisconsin, this 29th day of September, 2016.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge